

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

8 \* \* \*

9 ANDREA PERRINE, an individual,	Case No. 3:19-cv-00248-LRH-CBC
10 v.	Plaintiff, ORDER
11 LIBERTY MUTUAL FIRE INSURANCE	
12 COMPANY; and DOES 1-20, DOE	
13 COMPANIES 21-40 inclusive,	
14 Defendant.	

15

16 Plaintiff, Andrea Perrine, initiated this action in the Second Judicial District Court for  
17 Washoe County, Nevada on March 8, 2019. On May 10, 2019, on the basis of diversity  
18 jurisdiction, defendant Liberty Mutual Fire Insurance Company ('defendant') filed a notice of  
19 removal to this court (ECF NO. 1<sup>1</sup>):

20 After review of the complaint and defendant's petition for removal, the court finds that it  
21 requires more evidence to determine whether it has subject matter jurisdiction over this case.  
22 While it appears that the parties are of diverse citizenship<sup>2</sup>, defendant has not demonstrated that  
23 the amount in controversy exceeds \$75,000.

24 “[A]ny civil action brought in a State court of which the district courts of the United  
25 States have original jurisdiction, may be removed by the defendant . . . to the district court of the

26 \_\_\_\_\_  
27 <sup>1</sup> Refers to the court's docketing number.

28 <sup>2</sup> Plaintiff is a resident of Nevada and defendant is incorporated under the laws of Wisconsin and has its  
principal place of business in Massachusetts.

1 United States for any district . . . where such action is pending.” 28 U.S.C. § 1441(a). Among  
2 other reasons, the district courts of the United States have “original jurisdiction” where there is  
3 diversity of citizenship between the parties and the amount in controversy, exclusive of interest  
4 and costs, exceeds \$75,000. 28 U.S.C. § 1332(a).

5 “If . . . it appears that the district court lacks subject matter jurisdiction, the case shall be  
6 remanded.” 28 U.S.C. § 1447(c). “Federal jurisdiction must be rejected if there is any doubt as  
7 to the right of removal in the first instance.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir.  
8 1992) (*citing Libhart v. Santa Monica Dairy Co.*, 592 F.2d 1062, 1064 (9th Cir. 1979)).

9 Moreover, the removal statute is construed restrictively and in favor of remanding a case to state  
10 court. *See Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108-09 (1941); *Gaus*, 980 F.2d at  
11 566.

12 After a defendant files a petition for removal, the court must determine whether federal  
13 jurisdiction exists, even if no objection is made to removal. *See Rains v. Criterion Systems, Inc.*,  
14 80 F.3d 339, 342 (9th Cir. 1996). The defendant always has the burden of establishing that removal  
15 is proper. *Gaus*, 980 F.2d at 566. Normally this burden is satisfied if the plaintiff claims a sum  
16 greater than the jurisdictional requirement. *Id.*

17 However, if the plaintiff does not claim a sum greater than the jurisdictional requirement,  
18 the defendant cannot meet its burden by merely alleging that the amount in controversy is met:  
19 “The authority which the statute vests in the court to enforce the limitations of its jurisdiction  
20 precludes the idea that jurisdiction may be maintained by mere averment . . .” *Id.* (*quoting McNutt  
v. Gen. Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936)) (emphasis omitted).

22 In some cases, it may be “‘facially apparent’ from the complaint that the jurisdictional  
23 amount is in controversy.” *See Singer v. State Farm Mut. Auto. Ins.*, 116 F.3d 373, 377 (9th Cir.  
24 1997) (delineating the “appropriate procedure for determining the amount in controversy on  
25 removal” as described in *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326 (5th Cir. 1995)). However,  
26 “[w]hen the amount is not facially apparent from the complaint, the court may consider facts in  
27 the removal petition and may require parties to submit summary-judgment-type evidence relevant

1 to the amount in controversy at the time of removal.” *Kroske v. U.S. Bank Corp.*, 432 F.3d 976,  
2 980 (9th Cir. 2006) (internal quotation marks omitted).

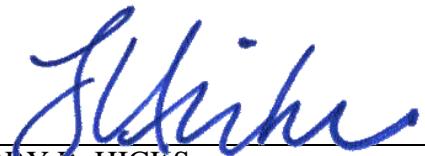
3 Here, in arguing that the amount in controversy requirement has been satisfied, defendant  
4 relies solely on the allegations in the complaint. However, the court finds that it is not facially  
5 apparent from the complaint that more than \$75,000 is in controversy. It may be that medical  
6 expenses alone, and other special damages claimed by plaintiff exceed the threshold amount for  
7 jurisdiction in this court, however, there has been no showing of such an amount by removing  
8 defendant. Accordingly, jurisdiction has not been established.

9 The court will provide defendant additional time to present “summary-judgment-type  
10 evidence” showing by a preponderance of the evidence that this case meets § 1332(a)’s amount in  
11 controversy requirement.

12 IT IS THEREFORE ORDERED that defendant is granted twenty (20) days from the entry  
13 of this order to establish the minimum amount in controversy for federal jurisdiction. Plaintiff is  
14 granted ten (10) days to file an opposition. No reply is required.

15 IT IS SO ORDERED.

16 DATED this 20th day of May, 2019.



---

LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE

19  
20  
21  
22  
23  
24  
25  
26  
27  
28